Claims 1, 2, 5, 8 and 9 were rejected under 35 U.S.C. § 103 as unpatentable over Beerse et al. (US Patent 6,294,186). Applicants traverse this rejection.

In the last Office Action, the Examiner focused upon applicants' demonstration of unobvious results. The terse response was that "the prior art teaches ARISTOFLEX AVC".

To applicants it would appear that the Examiner is stating the claims lack novelty. However, this contradicts the Examiner's withdrawal of the § 102 rejection and substitution of a § 103 rejection as replacement. Accordingly, the Examiner is now again requested to review the comparative experiments in light of the reference. Applicants' earlier remarks concerning the comparative experiments are reported below.

> "Attention is drawn to Tables II-IV. Viscosities were measured on formulations with various thickeners, at several low pH levels in the presence of glycolic acid and an ammonium salt thereof. Among the group of thickeners tested were Simulgel® EG, Simulgel® NS and Aristoflex® AVC. The Simulgel® copolymers are formed from acryloyldimethyl taurate monomer units. These are types of taurate copolymers. Sepigel® 305 is a polyacrylamide crosslinked with 2-acrylamido-2-methylpropane sulfonic acid. Evident from Table II-IV is that taurate copolymers such as Simulgel® EG and NS as well as Sepigel® 305 with taurate crosslinkage are substantially inferior to Aristoflex® AVC.
>
> Furthermore, Aristoflex® AVC remains proportionately relatively robust in viscosity even when glycolic acid is partially present as a salt form. Compare Table III and IV against Table II. Synthalen® CR has a viscosity close to Aristoflex® AVC in Table II. However, once salt forms of glycolic acid are introduced, this thickener (which is the

only other viable thickener of the group) performs relatively poorly in comparison to the Aristoflex® AVC.

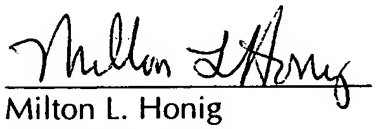
Not all taurate polymers perform equally well. This is especially so in the presence of salt forms of hydroxycarboxylic acids. The results with Aristoflex® AVC were unexpected. Beerse et al. unlike the claimed invention, remains silent in its disclosure as to any viscosity building benefits of one thickener over another. This reference in the Table at column 48, lines 8-9 equates Sepigel® 305 with that of Aristoflex® AVC. Applicants have shown a very substantial benefit over Sepigel® 305. It is particularly evident in situations where the hydroxycarboxylic acid to salt thereof molar ratio is 100:1 to 1:1. Beerse et al. does not reveal that ratio or identify the particular effectiveness of Aristoflex® AVC. Furthermore, Beerse et al. does not discuss the specific problem associated with building viscosity in hydroxycarboxylic acid systems. For all these reasons, the reference would not render the claims obvious."

Even if the comparative experimental data is considered lacking (which applicants do not subscribe to), the Examiner in the Final Office Action did not address the issue of a lack of prima facie obviousness. Claim 1 specifies that the hydroxycarboxylic acid and salt thereof are present in a relative molar ratio of 100:1 to 1:1. There is no explicit or inherent disclosure in Example 3 of Beerse et al. that the hand sanitizer includes a hydroxycarboxylic acid to salt thereof molar ratio of 100:1 to 1:1. It is noted that salicylic acid is described under Example 3 in the acid form with nothing mentioned about a salt form. Adjustment by NaOH/HCl to a particular pH is not an indication that the hydroxycarboxylic acid converts even partially to a salt form. Absent any disclosure with respect to the relative weight ratio of acid to salt, the Examiner has not set forth a prima

facie case of obviousness. An essential feature of the claimed invention is absent from the reference.

In view of the foregoing comments, applicants request the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,



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